

TITLE 15. BOARD OF PRISON TERMS

NOTICE OF PROPOSED REGULATORY ACTION RN 02-04

SUBJECT: *DOCUMENTATION HEARINGS*

NOTICE IS HEREBY GIVEN that the Board of Prison Terms (Board) proposes to amend sections 2041, 2269.1, 2273, 2308 and 2369 of Title 15, Division 2, California Code of Regulations (CCR) after considering all comments, objections, and recommendations regarding the proposed action.

AUTHORITY

These regulations are submitted pursuant to the Board's authority under Penal Code sections 3041 and 5076.2.

REFERENCE

These regulations are amended to implement, interpret, and/or make specific, Penal Code sections 3041, 5075, and 5076.1.

PUBLIC HEARING

A public hearing regarding the proposed regulatory action has not been scheduled. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the Board. ***The written comment period on the proposed regulations will close at 5:00 p.m., on December 27, 2002.*** All comments must be submitted in writing (by mail, fax, or e-mail) to the Agency Contact Person identified in this Notice by that time in order for them to be considered by the Board.

Comments may be submitted to:

Lori Manieri, Regulations Coordinator
Board of Prison Terms
1515 "K" Street, Sixth Floor
Sacramento, CA 95814
Telephone: (916) 445-5277
Facsimile No.: (916) 322-3475
E-mail: regcomment@bpt.ca.gov

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code section 3052 vests with the Board the authority to establish and enforce rules and regulations under which prisoners committed to state prisons may be allowed to go upon parole outside of prison when eligible for parole.

Pursuant to Penal Code section 3041, the Board (during the third year of incarceration) is required to meet with each inmate for the purposes of reviewing the inmate's file, making recommendations, and documenting activities and conduct pertinent to granting or withholding post-conviction credit. One year prior to the inmate's minimum eligible parole release date, a panel consisting of at least two commissioners of the Board shall conduct a parole suitability hearing.

The proposed regulatory amendments are designed to clarify the documentation hearing process for life prisoners and to implement the necessary changes to sections affected by the repeal of CCR section 2267 that make reference to recommendation hearings. Recommendation hearings were held to review the files of life prisoners to make recommendations as to the type of conduct and programs which would be beneficial to the prisoners to enhance the possibility of a grant of parole.

The objective of the documentation hearing is virtually the same as the repealed recommendation hearing. Procedural changes to the documentation hearing process (CCR § 2269.1) include modifications to the composition of the hearing panel and elimination of language referring to subsequent documentation hearings. Modifications to CCR section 2369 will delete reference to recommendation hearings and define the documentation hearing process for multijurisdiction prisoners, providing for prisoners located outside of California, to utilize videoconferencing as a means of participating in their documentation hearings.

LOCAL MANDATES

The Board has determined that the proposed action imposes no mandate upon local agencies or school districts.

FISCAL IMPACT STATEMENT

- Cost to any local agency or school district which must be reimbursed
- in accordance with Government Code sections 17500 through 17630: *None*
- Cost or savings to any state agency: *None*
- Other non-discretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS

The Board has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Board has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments will not affect small businesses because they apply only to inmates and parolees of California penal institutions.

ASSESSMENT OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Board has determined that the proposed amendment to regulations will have no effect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

CONTACT PERSON

Please direct requests for copies of the initial statement of reasons, the proposed text of the regulations, or other information upon which the rulemaking is based to:

Lori Manieri, Regulations Coordinator
Board of Prison Terms
1515 "K" Street, Sixth Floor
Sacramento, CA 95814
(916) 445-5277

In any such inquiries, please identify the action by using the **Board's regulation control number 02-04**.

Note: In the event the contact person is unavailable, inquiries should be directed to the following backup contact person at the same address as noted above: **Denise Schmidt, 324-7604**.

Questions on the substance of the proposed regulatory action may be directed to: **John Winn, Chief Counsel, 322-6729**.

Website Access: Materials regarding this proposal can be accessed from the Board's website at: www.bpt.ca.gov.

AVAILABILITY OF THE INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared and will make available the initial statement of reasons and the text of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all the information on which the proposal is based, is available to the public upon request from the agency contact person indicated above. Additionally, this notice of proposed action, the initial statement of reasons, and the proposed text of the regulations are available on the Board's Internet Home Page at (www.bpt.ca.gov).

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following the preparation of the final statement of reasons, copies may be obtained from the Board contact person, and also by fax, or e-mail.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.